

Bold = new rule language

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~~Strikeout and single underline~~ = new language that is being stricken since preliminary adoption

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TITLE 327 WATER POLLUTION CONTROL BOARD

PROPOSED RULE AS PRELIMINARILY ADOPTED WITH IDEM'S SUGGESTED CHANGES INCORPORATED LSA Document#01-96

DIGEST

This rulemaking is being initiated due to the new federal Phase II program regulations for storm water discharges. The National Pollutant Discharge Elimination System (NPDES) storm water Phase II final rule was published on December 8, 1999, at 64 FR 68722. It requires NPDES permit coverage, mostly under general permits, for storm water discharges from regulated municipal separate storm sewer systems (MS4s) primarily located in urbanized areas. Operators of MS4s located within a listed area will be designated into the Phase II program by the state. Therefore, the new rule 13 language under Article 15 adds the federal Phase II requirements, and rule language in Article 5 will be revised to reflect this change. Thus this rulemaking amends 327 IAC 5-4-6 and adds 327 IAC 15-13-1 through 327 IAC 15-13-22. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: April 1, 2001, Indiana Register (24 IR 2244).

Second Notice of Comment Period and Notice of First Hearing: January 1, 2002 (25 IR 1353).

Preliminary Adoption Hearing: May 8, 2002. Hearing opened and continued to June 12, 2002.

Preliminary Adoption Hearing: June 12, 2002. Hearing opened and continued to July 10, 2002.

July 10, 2002, Water Pollution Control Board meeting was cancelled.

Notice of Preliminary Adoption Hearing: August 1, 2002, Indiana Register (25 IR 3805).

Preliminary Adoption Hearing: August 14, 2002.

Proposed Rule with Third Notice of Comment Period and Notice of Second Hearing: December 1, 2002, Indiana Register (26 IR 829).

Notice of Second Hearing: January 1, 2003 (26 IR 1113).

327 IAC 5-4-6

327 IAC 15-13

SECTION 1. 327 IAC 5-4-6 IS AMENDED TO READ AS FOLLOWS:

327 IAC 5-4-6 Storm water discharges

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1

Affected: IC 13-18-4

Sec. 6. (a) The following discharges consisting entirely of storm water ~~are subject to~~ **require the an individual NPDES: program permit:**

~~(1) A discharge with respect to which a permit has been issued prior to February 4, 1987.~~

~~———— (2) A discharge which the commissioner determines contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the state.~~

(1) A discharge which that the commissioner determines:

(A) the commissioner determines contributes to a violation of a water quality standard;

(B) is a significant contributor of pollutants to waters or to a regulated municipal separate storm sewer system (MS4) conveyance; or

(C) is subject to the requirements of 327 IAC 15 if meets the conditions of one

(1) of the six (6) cases listed in 327 IAC 15-2-9(b) occurs.

~~(b) Prior to October 1, 1992, a permit shall not be required for a discharge composed entirely of storm water, except the following:~~

~~(1) (2) A discharge with respect to which a permit has been issued prior to February 4, 1987.~~

~~(2) (3) A discharge associated with exposed to categories of industrial activity specified in 327 IAC 15-6-2 that is subject to federal storm water effluent limitation guidelines, unless the effluent limitations are placed in a general permit under article 15.~~

~~(3) A discharge from a large municipal separate storm sewer system serving a population of two hundred fifty thousand (250,000) or more.~~

~~———— (4) A discharge from a medium municipal separate storm sewer system serving a population of one hundred thousand (100,000) or more but less than two hundred fifty thousand (250,000).~~

~~———— (5) A discharge which the commissioner determines contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the state.~~

~~(3) (4) A discharge associated with the state department of transportation.~~

~~(4)~~ (5) A discharge from an MS4 conveyance subject to regulation under 40 CFR 122.26(a)(iii) or (iv).

~~(c) The commissioner shall not, under this section, require a permit for discharges of storm water runoff from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows which are from conveyances or systems of conveyances (including, but not limited to, pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated by contact with, or do not come into contact with any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations.~~

~~(d) The following are requirements for large and medium municipal separate storm sewer:~~

~~(1) Permits must be obtained for all discharges from large and medium municipal separate storm sewer systems.~~

~~(2) The commissioner may either issue one (1) system wide permit covering all discharges from municipal separate storm sewers within a large or medium municipal storm sewer system or issue distinct permits for appropriate categories of discharges within a large or medium municipal separate storm sewer system including, but not limited to:~~

~~(A) all discharges owned or operated by the same municipality;~~

~~(B) located within the same jurisdiction;~~

~~(C) all discharges within a system that discharges to the same watershed;~~

~~(D) discharges within a system that are similar in nature; or~~

~~(E) individual discharges from municipal separate storm sewers within the system.~~

~~(3) The operator of a discharge from a municipal separate storm sewer which is part of a large or medium municipal separate storm sewer system must do any of the following:~~

~~(A) Participate in a permit application (to be a permittee or a copermitttee) with one (1) or more other operators of discharges from the large or medium municipal storm sewer system which covers all, or a portion of all, discharges from the municipal separate storm sewer system.~~

~~(B) Submit a distinct permit application which only covers discharges from the municipal separate storm sewers for which the operator is responsible.~~

~~(C) A regional authority may be responsible for submitting a permit application under the following guidelines:~~

~~(i) The regional authority together with coapplicants shall have authority over a storm water management program that is in existence, or shall be in existence at the time Part 1 of the application is due.~~

~~(ii) The permit applicant or coapplicants shall establish their ability to~~

make a timely submission of Part 1 and Part 2 of the municipal application:

(iii) Each of the operators of large or medium municipal separate storm sewers shall comply with the application requirements of 40 CFR 122.26(d):

(4) One (1) permit application may be submitted for all or a portion of all municipal separate storm sewers within adjacent or interconnected large or medium municipal separate storm sewer systems. The commissioner may issue one (1) system wide permit covering all or a portion of all municipal separate storm sewers in adjacent or interconnected large or medium municipal separate storm sewer systems:

(5) Permits for all or a portion of all discharges from large or medium municipal separate storm sewer systems that are issued on a system wide, jurisdiction wide, watershed, or other basis may specify different conditions relating to different discharges covered by the permit, including different management programs for different drainage areas which contribute storm water to the system:

————— (6) Copermittees need only comply with permit conditions relating to discharges from
————— the municipal separate storm sewers for which they are operators:

(e) (1) In addition to meeting the requirements of 40 CFR 122.26(c), an operator of a storm water discharge associated with industrial activity which discharges through a large or medium municipal separate storm sewer system shall submit, to the operator of the municipal separate storm sewer system receiving the discharge no later than May 15, 1991, or one hundred eighty (180) days prior to commencing such discharge, the following:

(A) The name of the facility:

(B) A contact person and phone number:

(C) The location of the discharge:

(D) A description, including Standard Industrial Classification, which best reflects the principal products or services provided by each facility:

(E) Any existing NPDES permit number:

(2) In cases where the industrial activity consists of construction activity which disturbs five (5) acres or more of ground, information equivalent to that required by subdivision (1) and 327 IAC 15-5-5 shall be submitted to the operator of the municipal separate storm sewer system receiving the discharge prior to the initiation of the land disturbing activities:

(f) The commissioner may issue permits for municipal separate storm sewers that are designated under subsection (b)(5) on a system wide basis, jurisdiction wide basis, watershed basis, or other appropriate basis, or may issue permits for individual discharges:

(g) For storm water discharges associated with industrial activity from point sources which discharge through a nonmunicipal or nonpublicly owned separate storm sewer system, the commissioner may issue a single NPDES permit, with each discharger a copermittee to a permit issued to the operator of the portion of the system that discharges into waters of the state, or

individual permits to each discharger of storm water associated with industrial activity through the nonmunicipal conveyance system:

- (1) All storm water discharges associated with industrial activity that discharge through a storm water discharge system that is not a municipal separate storm sewer must be covered by an individual permit, or a permit issued to the operator of the portion of the system that discharges to waters of the state, with each discharger to the nonmunicipal conveyance a copermittee to that permit.
- (2) Where there is more than one (1) operator of a single system of such conveyances, all operators of storm water discharges associated with industrial activity must submit applications.
- (3) Any permit covering more than one (1) operator shall identify the effluent limitations, or other permit conditions, if any, that apply to each operator.
- (h) Conveyances that discharge storm water runoff combined with municipal sewage are point sources that must obtain NPDES permits in accordance with the procedures of 40 CFR 122.21 and are not subject to the provisions of this section.

(b) The following discharges consisting entirely of storm water are subject to require an NPDES permit and are eligible for coverage under a general NPDES permit, unless one (1) of the conditions in subsection (a) is met:

(1) A discharge exposed to categories of industrial activity specified in 327 IAC 15-6-2.

(2) A discharge associated with construction activities, which disturb one (1) or more acres of land. Included in these activities are disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale as defined in 327 IAC 15-5-4(20) if the larger common plan will ultimately disturb one (1) or more acres of land.

(3) A discharge from an MS4 conveyance serving a municipal population of seven thousand (7,000) or more, and meeting the designation criteria listed in 327 IAC 15-13-3(a)(5) and (6). Discharges from public and private storm water utilities and municipal street department conveyances and operational areas within the designated area are included.

(4) A discharge from an MS4 conveyance that has been designated for storm water permit coverage by its location within an urbanized area as determined by the 1990 or 2000 Decennial Census map by the United States Census Bureau. Discharges from public and private storm water utilities and municipal street department conveyances and operational areas within the designated area are included.

(5) A discharge from a county, or portion of a county, MS4 conveyance that has been designated for storm water permit coverage by its location within an urbanized area as determined by the 1990 or 2000 Decennial Census map by the United States Census Bureau. Discharges from county highway department conveyances and operational areas within the designated area are included.

~~(6) A discharge from an MS4 conveyance serving a university, college, military base, hospital, or correctional facility population of one thousand (1,000) or more, and located within a regulated municipality or county as determined by subdivision(4) or (5):~~

(3) A discharge from an MS4 conveyance that meets the designation criteria in 327 IAC 15-13-3(a) or 327 IAC 15-13-3(b).

(c) The commissioner shall not, under this section, require a permit for discharges of storm water run-off from mining operations or oil and gas exploration, production, processing, or treatment operations or transmission facilities, composed entirely of flows from conveyances or systems of conveyances (including, but not limited to, pipes, conduits, ditches, and channels) used for collecting and conveying precipitation run-off and which are not contaminated by contact with, or do not come into contact with any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations.

(d) ~~For~~ If an individual NPDES permit is required under subsection (a), the department ~~shall~~ may consider the following in determining the requirements to be contained in the permit:

(1) The provisions in:

(A) 327 IAC 15-5, 327 IAC 15-6, and 327 IAC 15-13, as appropriate to the type of storm water discharge; or

(B) 327 IAC 5-2, 327 IAC 5-5, and 327 IAC 5-9 for establishing NPDES permit effluent limitations and conditions.

(2) The United States Environmental Protection Agency guidance document titled "Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits" (August 1, 1996).*

(3) The nature of the discharges and activities occurring at the site or facility.

~~(3)(4)~~ (4) Other information relevant to the potential impact on water quality.

(e) Storm water run-off discharged into a combined sewer system is not subject to the provisions of this section.

~~(f)~~ (f) Whether a discharge from a ~~municipal separate storm sewer or an MS4 conveyance~~ is, ~~not~~, subject to regulation under this section, shall have no bearing on whether the owner or operator of the discharge is eligible for funding under Title II, Title III, or Title VI of the CWA.

~~(g)~~ (g) Terms as used in this section have the same meaning as defined under 40 CFR 122.26(b), 327 IAC 15-5-4, 327 IAC 15-6-4, or 327 IAC 15-13-5, unless defined as follows:

(1) "General NPDES permit" means an authorization to discharge under the

NPDES rules, that is applicable to all owners and operators of point sources of a particular category located within a designated general permit boundary, other than owners and operators of such sources to whom individual NPDES permits have been issued.

(2) “Individual NPDES permit” means an authorization to discharge under the NPDES rules, that is applicable to an individual owner or operator of point sources, and establishes requirements specific for that owner or operator.

***Copies of the United States Environmental Protection Agency guidance document referenced in this section may be obtained from the Government Printing Office, Washington D.C. 20402 or the Indiana Department of Environmental Management, Office of Water Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Water Pollution Control Board; 327 IAC 5-4-6; filed Sep 24, 1987, 3:00 p.m.: 11 IR 644; filed Feb 26, 1993, 5:00 p.m.: 16 IR 1764)*

SECTION 2. 327 IAC 15-13 IS ADDED TO READ AS FOLLOWS:

Rule 13. Storm Water Run-Off Associated with Municipal Separate Storm Sewer System Conveyances

327 IAC 15-13-1 Purpose

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 1. The purpose of this rule is to establish requirements for storm water discharges from municipal separate storm sewer system (MS4) conveyances so that public health, existing water uses, and aquatic biota are protected. *(Water Pollution Control Board; 327 IAC 15-13-1)*

327 IAC 15-13-2 Applicability

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 2. This rule applies to an MS4 entity that:

(1) is not required to obtain an individual NPDES permit under 327 IAC 5-4-6(a)(4), 327 IAC 5-4-6(a)(5) or 327 IAC 15-2-9(b);

(2) meets the general permit rule applicability requirements under 327 IAC 15-2-3;

(3) does not have coverage under an individual MS4 permit; and

(4) operates, maintains, or otherwise has responsibility for an MS4 conveyance within a designated MS4 area.

(Water Pollution Control Board; 327 IAC 15-13-2)

327 IAC 15-13-3 MS4 area designation criteria

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 3. (a) An MS4 entity that meets one (1) of the following is designated for permit coverage under this rule:

(1) Located within, or contiguous to, a mapped ~~1990~~ or 2000 United States Census Bureau urbanized area (UA) and is:

(A) a municipality, regardless of its United States Census Bureau population; or

(B) a university, college, military base, hospital, or correctional facility with a full-time equivalent enrollment, daily user population, or bed count occupancy (based on the most recent enrollment count, or population data) greater than or equal to one thousand (1,000).

(2) A county that contains a mapped UA. Only the portion of the county that contains the mapped UA, as delineated by political township or section, township, and range boundaries, must be regulated. If only a portion of the county contains a mapped UA, the MS4 entity may elect to regulate, to the extent of its authority, any additional portion of the county, as delineated by political township or section, township, and range boundaries, under this rule.

(3) A documented significant contributor of pollutants to waters or a regulated MS4 area.

(4) A municipality with a population density, according to 2000 United States Census Bureau data, of five hundred (500) people per square mile or greater and United States Census Bureau population of ten thousand (10,000) or more.

(5) A municipality with a population density, according to 2000 United States Census Bureau data, of five hundred (500) people per square mile or greater, United States Census Bureau population greater than seven thousand (7,000) and less than ten thousand (10,000) and having a positive, ten (10) year population growth percentage greater than or equal to ten percent (10%).

(6) A municipality with a population density, according to 2000 United States Census Bureau data, of five hundred (500) people per square mile or greater, United States Census Bureau population greater than seven thousand (7,000) and less than ten thousand (10,000) and having a university or college full-time equivalent enrollment, military base population, hospital bed count occupancy, or correctional facility daily user population (based on the most recent enrollment, count, or population data) that places the total population greater than or equal to ten thousand (10,000).

(7) A university, college, military base, hospital, or correctional facility with a full-time equivalent enrollment, daily user population, or bed count occupancy greater than or equal to one thousand (1,000), located within a designated municipality, and having responsibility for a storm water conveyance.

(8) A conservancy district or homeowner's association with a population within their service area of greater than or equal to one thousand (1,000) people, located within a designated municipality or mapped UA, and having responsibility for a storm water conveyance.

(9) A public or private storm water utility that serves one (1) or more of the MS4 entities designated under subdivisions (1) through ~~(7)~~(8).

(b) An MS4 entity outside of a mapped UA not already designated under subsection (a) may be designated for permit coverage if its discharge is to a sensitive area or if other environmental programs are not adequately protecting water quality.

(c) Once an MS4 entity is designated under this section, it remains designated until the expiration of its permit, unless any of the conditions for termination in section 20 of this rule are applicable or a waiver is granted in accordance with subsection (f).

(d) The department shall notify MS4 entities meeting the designation criteria of this section in writing. If the department does not notify an MS4 entity in writing, an MS4 entity meeting the designation criteria of this section must comply with the requirements of 327 IAC 15-13-9(e).

(e) A designated MS4 entity subject to this rule is also subject to the requirements of 327 IAC 15-2-9(b) and may be required to obtain an individual NPDES permit.

(f) A designated MS4 entity may request a waiver from permit coverage under this rule. Unless an MS4 entity's conveyance system is substantially contributing to the pollutant loadings of a regulated, physically interconnected MS4 entity or a department determination is made that requires storm water controls, MS4 entities within a mapped UA that have a conveyance system serving a population of less than 1,000 are conditionally granted a waiver. For all other MS4 entities, this waiver will only be granted under the following conditions:

(1) The MS4 entity's conveyance system serves a population of less than 10,000;

(2) The MS4 entity's conveyance system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 entity that is regulated by this rule;

(3) An evaluation of all waters that receive a discharge from the MS4 entity's conveyance system has been conducted by the department or another approved entity;

(4) For all evaluated waters, the department has determined that storm water controls are not needed based on wasteload allocations that are part of a United States Environmental Protection Agency approved or established total maximum daily load or equivalent process, and are reflective of pollutants identified as sources of impairment; and

(5) The department has determined that future discharges from the MS4 entity's conveyance system do not have the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts. *(Water Pollution Control Board; 327 IAC 15-13-3)*

327 IAC 15-13-4 General permit boundary

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 4. (a) This general permit covers Indiana.

(b) For each MS4 entity, the permit covers all storm water discharges from conveyance systems for which it has jurisdiction, or, in the case of designated counties, the portion of the county jurisdictional area depicted in a mapped UA, as specified under section 3(a)(2) of this rule, unless appropriate written, enforceable, legal documentation has been obtained to allow another entity to have permit responsibilities for systems and areas within another entity's jurisdiction. *(Water Pollution Control Board; 327 IAC 15-13-4)*

327 IAC 15-13-5 Definitions

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-11-2; IC 13-18-4; IC 13-20-10; IC 14-32

Sec. 5. For purposes of this rule, the following definitions apply:

(1) "Best management practice" or "BMP" means any structural or nonstructural control measure utilized to improve the quality and, as appropriate, reduce the quantity of storm water run-off. The term includes schedules of activities, prohibitions of practice, treatment requirements, operation and maintenance procedures, use of containment facilities, land-use planning, policy techniques, and other management practices.

(2) "Buffer strip" means an existing, variable width strip of vegetated land intended to protect water quality and terrestrial and aquatic habitat in an adjacent resource or area.

(3) "Canine park" means a designated public location where dogs are restricted and animal waste may accumulate. For the purposes of this rule, the term does not include kennels, municipal dog impoundments, or humane society buildings.

(4) "Class V injection well" means a type of well, which typically has a depth greater than its largest surface dimension, emplaces fluids into the subsurface, and does not meet the definitions of Class I through Class IV wells as defined under 40 CFR 146.5. While the term includes the specific examples described in 40 CFR 144.81, septic systems that serve more than one (1) single-family dwelling or provide service for nondomestic waste, dug wells, bored wells, improved

sinkholes, french drains, infiltration sumps, and infiltration galleries, it does not include surface impoundments, trenches, or ditches that are wider than they are deep.

(5) “Combined sewer” means a sewer that is designed, constructed, and used to receive and transport combined sewage.

(6) “Combined sewer operational plan” or “CSOOP” means a plan that contains the minimum technology controls applicable to, and requirements for operation and maintenance of, a combined sewer system:

- (A) before;
- (B) during; and
- (C) upon completion of;

the implementation of a long term control plan.

(7) “Commissioner” refers to the commissioner of the department of environmental management.

(8) “Constructed wetland” means a manmade shallow pool that creates growing conditions suitable for wetland vegetation and is designed to maximize pollutant removal.

(9) “Contiguity” means an entity’s proximity to a designated MS4 area in such a way that it allows for direct discharges of storm water run-off into the regulated MS4 conveyance.

(10) “Conveyance” means any structural process for transferring storm water between at least two (2) points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.

(11) “Daily user population” means a population for an entity that is present at that location on a daily basis.

(12) “Dechlorinated swimming pool discharge” means chlorinated water that has either sat idle for seven (7) days following chlorination prior to discharge to the MS4 conveyance, or, by analysis, does not contain detectable concentrations (less than five-hundredths (0.05) milligram per liter) of chlorinated residual.

(13) “Department” refers to the department of environmental management.

(14) “Detention basin” means a type of storage practice used to detain or slow storm water run-off and then release it through a positive outlet.

(15) “Disposal” means the:

- (A) discharge;
- (B) deposit;
- (C) injection;
- (D) spilling;
- (E) leaking; or
- (F) placing;

of any solid waste or hazardous waste into or on any land or water so that the solid waste or hazardous waste, or any constituent of the waste, may enter the

environment, be emitted into the air, or be discharged into any waters, including ground waters.

(16) **“Dry well”** means a type of infiltration practice that allows storm water run-off to flow directly into the ground via a bored or otherwise excavated opening in the ground surface.

(17) **“Filter strip”** means a type of vegetative practice used to filter storm water run-off through the use of planted, or existing vegetation near disturbed or impervious surfaces.

(18) **“Floatable”** means any solid waste that, due to its physical characteristics, will float on the surface of water. For the purposes of this rule, the term does not include naturally occurring floatables, such as leaves or tree limbs.

(19) **“Flood plain”** means the area adjoining a river, stream, or lake that is inundated by the base flood as determined by 312 IAC 10.

(20) **“Floodway”** means the channel of a river or stream and those portions of the flood plain adjoining the channel that are reasonably required to efficiently carry and discharge the peak flow from the base flood as determined by 312 IAC 10.

(21) **“Full-time equivalent enrollment”** means a college or university enrollment of undergraduate students currently taking fifteen (15) credit hours of course work and graduate or professional students currently taking twelve (12) credit hours of course work. Each respective fifteen (15) or twelve (12) credit hours of course work equals one (1) full-time equivalent.

(22) **“Garbage”** means all putrescible animal solid, vegetable solid, and semisolid wastes resulting from the:

- (A) processing;
- (B) handling;
- (C) preparation;
- (D) cooking;
- (E) serving; or
- (F) consumption of food or food materials.

(23) **“General permit rule boundary”** means an area based upon existing geographic or political boundaries indicating the area within which an MS4 conveyance affected by this rule is located.

(24) **“Grass swale”** means a type of vegetative practice used to filter storm water run-off via a vegetated, shallow-channel conveyance.

(25) **“Ground water”** means such accumulations of underground water, natural or artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this state. The term does not include manmade underground storage or conveyance structures.

(26) **“Household hazardous waste”** or **“HHW”** means solid waste generated by households that:

- (A) is ignitable, as defined under 40 CFR 261.21;
- (B) is toxic, as defined under 40 CFR 261.24;

- (C) is reactive, as defined under 40 CFR 261.23;
(D) is corrosive, as defined under 40 CFR 261.22; or
(E) otherwise poses a threat to human health or the environment.
- (27) “Hydrologic unit code” or “HUC” means a numeric United States Geological Survey code that corresponds to a watershed area. Each area also has a text description associated with the numeric code.
- (28) “Illicit discharge” means any discharge to an MS4 conveyance that is not composed entirely of storm water, except naturally occurring floatables, such as leaves or tree limbs. Sources of illicit discharges include sanitary wastewater, septic tank effluent, car wash wastewater, oil disposal, radiator flushing disposal, laundry wastewater, roadway accident spillage, and household hazardous wastes.
- (29) “Impervious surface” means any surface that prevents storm water to readily infiltrate into the soils.
- (30) “Individual NPDES permit” means an NPDES permit issued to one (1) MS4 operator that contains requirements specific to that MS4 conveyance.
- (31) “Infiltration basin or trench” means a type of infiltration practice used to filter storm water run-off into soils via the use of installed structures with porous material.
- (32) “Infiltration gallery” means a type of infiltration practice used to filter storm water run-off into soils that utilizes one (1) or more vertical pipes leading to a horizontal, perforated pipe laid within a trench, often backfilled with gravel or some other permeable material.
- (33) “Infiltration practices” means any structural BMP designed to facilitate the percolation of run-off through the soil to ground water. Examples include infiltration basins or trenches, dry wells, and porous pavement.
- (34) “Initial receiving water” means a water that is the direct recipient of a discharge from an MS4 area after the discharge passes through another MS4 conveyance.
- (35) “Larger common plan of development or sale” means a plan, undertaken by a single developer or a group of developers acting in concert, to offer lots for sale or lease; where such land is contiguous, or is known, designed, purchased or advertised as a common unit or by a common name, such land shall be presumed as being offered for sale or lease as part of a larger common plan. The term also includes phased construction by a single entity for its own use.
- (36) “Legally binding agreement” means a written, enforceable legal document used to describe responsibilities between joint permittees or other entities.
- (37) “Load allocation” means the portion of a receiving waterbody’s loading capacity that is attributed either to one (1) of its existing or future nonpoint sources of pollution or to natural background sources.
- (38) “Long term control plan” or “LTCP” means a plan that is:
(A) consistent with the federal Combined Sewer Overflow Control Policy (59 FR 18688); and

(B) developed in accordance with the recommendations set forth in Combined Sewer Overflows Guidance for Long-Term Control Plan (EPA 832B95002).

(39) “Minimum control measure” or “MCM” refers to the following minimum measures required by this rule:

- (A) Public education and outreach.
- (B) Public participation and involvement.
- (C) Illicit discharge detection and elimination.
- (D) Construction site run-off control.
- (E) Postconstruction run-off control.
- (F) Pollution prevention and good housekeeping.

(40) “MS4 area” means a land area comprising one (1) or more places that receives coverage under one (1) NPDES storm water permit regulated by this rule or ~~327 IAC 5-4-6(a)(3)~~ **327 IAC 5-4-6(a)(4)** and ~~327 IAC 5-4-6(a)(4)~~ **327 IAC 5-4-6(a)(5)**.

(41) “MS4 entity” means a public or private body that owns, operates, or maintains a storm water conveyance system, including a transportation agency operated by that body. The term can also include federal, state, city, town, county, district, association, or township public bodies, and privately owned universities, colleges, or storm water utilities. For the purposes of this rule, the term does not include non-MS4 entity-owned shopping malls, office parks, apartment complexes, golf courses, churches, or hotels.

(42) “MS4 operator” means the person responsible for development, implementation, or enforcement of the MCMs for a designated MS4 area.

(43) “Municipal separate storm sewer system” or “MS4” means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains, that is:

- (A) owned or operated by a:
 - (i) federal, state, city, town, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over storm water, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under Section 208 of the Clean Water Act (33 U.S.C. 1288) that discharges into waters of the state; or
 - (ii) privately owned storm water utility, hospital, university or college having jurisdiction over storm water that discharges into waters of the state;
- (B) designed or used for collecting or conveying storm water;
- (C) not a combined sewer; and
- (D) not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

(44) “Municipal, state, federal, or institutional refueling area” means an operating gasoline or diesel fueling area whose primary function is to provide fuel to either municipal, state, federal, or institutional equipment or vehicles.

(45) “Mutual drain” means a drainage system that:

(A) is located on two (2) or more tracts of land that are under different ownership;

(B) was established by the mutual consent of all the owners; and

(C) was not established under or made subject to any drainage statute.

(46) “Nonpoint source” means a source of water pollution that does not meet the definition of point source. The term includes in-place pollutants, direct wet and dry deposition, ground water inflow, and overland run-off.

(47) “Notice of deficiency letter” or “NOD letter” means a written notification from the department indicating an MS4 entity’s deficiencies in their its NOI letter or SWQMP submittals.

(48) “Notice of intent letter” or “NOI letter” means a written notification indicating an MS4 entity’s intention to comply with the terms of this rule in lieu of applying for an individual NPDES permit and includes information as required under sections 6 and 9 of this rule. It is the application for obtaining permit coverage under this rule.

(49) “Notice of sufficiency letter” or “NOS letter” means a written notification from the department indicating that an MS4 entity has sufficiently provided the required information in their its NOI letter or SWQMP submittals.

(50) “Notice of termination letter” or “NOT letter” means a written notification from the department indicating that an MS4 entity has met the conditions to terminate their its permit coverage under this rule.

(51) “Open space” means any land area devoid of any disturbed or impervious surfaces created by industrial, commercial, residential, agricultural, or other manmade activities.

(52) “Outfall” means a point source discharge via a conveyance of storm water run-off into a water of the state.

(53) “Outfall scouring” means the deterioration of a streambed or lakebed from an outfall discharge to an extent that the excessive settling of solid material results and suitable aquatic habitat is diminished.

(54) “Point source” means any discernible, confined, and discrete conveyance, including a pipe, ditch, channel, tunnel, conduit, well, or discrete fissure.

(55) “Pollutant of concern” means any pollutant that has been documented via analytical data as a cause of impairment in any waterbody, or to another MS4, to which the MS4 discharges.

(56) “Porous pavement” means a type of infiltration practice to improve the quality and reduce the quantity of storm water run-off via the use of manmade, pervious pavement which allows run-off to percolate through the pavement and into underlying soils.

(57) “Private drain” means a drainage system that:

(A) is located on land owned by one (1) person or by two (2) or more persons jointly; and

(B) was not established under or made subject to any drainage statute.

(58) “Programmatic indicator” means any data collected by an MS4 entity that is used to indicate implementation of one (1) or more minimum control measures.

(59) “Qualified professional” means an individual who is trained and experienced in storm water treatment techniques and related fields as may be demonstrated by state registration, professional certification, experience, or completion of coursework that enable the individual to make sound, professional judgments regarding storm water control or treatment and monitoring, pollutant fate and transport, and drainage planning.

(60) “Rain garden” means a vegetative practice used to alter impervious surfaces, such as roofs, into pervious surfaces for absorption and treatment of rainfall.

(61) “Receiving stream” or “receiving water” means a waterbody that receives a discharge from an outfall. The term does not include private drains, unnamed conveyances, retention and detention basins, or constructed wetlands used as treatment.

(62) “Redevelopment” means alterations of a property that change a site or building in such a way that there is disturbance of one (1) acre or more of land. The term does not include such activities as exterior remodeling.

(63) “Responsible individual” means the person responsible for development, implementation, or enforcement of the MCMs for a designated MS4 entity.

(64) “Retail gasoline outlet” means an operating gasoline or diesel fueling facility whose primary function is the resale of fuels. The term applies to facilities that create five thousand (5,000) or more square feet of impervious surfaces, or generate an average daily traffic count of one hundred (100) vehicles per one thousand (1,000) square feet of land area.

(65) “Retention basin” means a type of storage practice, that has no positive outlet, used to retain storm water run-off for an indefinite amount of time. Run-off from this type of basin is removed only by infiltration through a porous bottom or by evaporation.

(66) “Riparian habitat” means a land area adjacent to a waterbody that supports animal and plant life associated with that waterbody.

(67) “Riparian zone” means a land area adjacent to a waterbody that is directly associated with that waterbody.

(68) “Sand” means mineral material with a size range between two (2) and one-sixteenth (1/16) millimeter diameter.

(69) “Sedimentation” means the settling and accumulation of unconsolidated material carried by storm water run-off.

(70) “Sensitive area” means a water body identified as needing priority protection or remediation based on:

- (A) having threatened or endangered species or their habitat;
- (B) usage as a public surface water supply intake;
- (C) usage for full body contact recreation, such as bathing beaches; or
- (D) exceptional use classification as found in 327 IAC 2-1-11(b),
outstanding state resource water classification as found in 327 IAC 2-1-2(3) and 327 IAC 2-1.5-19(b).

(71) “Significant contributor of pollutants” means an MS4 entity or industrial facility that contributes pollutants into an MS4 conveyance ~~and negatively in~~ such a quantity or quality and to such a degree that it impacts the receiving MS4 operator’s ~~capability to be consistent~~ ability to comply with applicable state or federal law.

(72) “Soil and water conservation district” or “SWCD” means a political subdivision established under IC 14-32.

(73) “Solid waste” means any garbage, refuse, sludge from a waste treatment plant, sludge from a water supply treatment plant, sludge from an air pollution control facility, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations or from community activities. The term does not include:

(A) solid or dissolved material in:

(i) domestic sewage; or

(ii) irrigation return flows or industrial discharges;

that are point sources subject to permits under section 402 of the Federal Water Pollution Control Act Amendments (33 U.S.C. 1342);

(B) source, special nuclear, or byproduct material (as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

(C) manures, or crop residues returned to the soil at the point of generation as fertilizers or soil conditioners as part of a total farm operation; or

(D) vegetative matter at composting facilities registered under IC 13-20-10.

(74) “Spill” means the unexpected, unintended, abnormal, or unapproved dumping, leakage, drainage, seepage, discharge, or other loss of petroleum, hazardous substances, extremely hazardous substances, or objectionable substances. The term does not include releases to impervious surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil.

(75) “Standard Industrial Classification code” or “SIC code” means the four (4) digit code applicable to a particular industrial activity in accordance with the Standard Industrial Classification Manual published by the Office of Management and Budget of the Executive Office of the President of the United States.

(76) “Storage practices” means any structural BMP intended to store or detain storm water and slowly release it to receiving waters or drainage systems. The

term includes detention and retention basins.

(77) “Storm drain marking” means any marking procedure that identifies a storm sewer inlet as draining directly to a receiving waterbody so as to avoid dumping pollutants. The procedures can include painted or cast messages and adhesive decals.

(78) “Storm water” means water resulting from rain, melting or melted snow, hail, or sleet.

(79) “Storm water quality management plan” or “SWQMP” means a comprehensive written document that addresses storm water run-off quality within an MS4 area. The SWQMP is divided into three (3) different submittal parts as follows:

(A) Part A-Initial Application.

(B) Part B-Baseline Characterization and Report.

(C) Part C-Program Implementation.

(80) “Stream reach characterization and evaluation report” or “SRCER” means a written report that characterizes and evaluates the pollutant sources on receiving waters from a combined sewer system discharge.

(81) “Total maximum daily load” or “TMDL” means the sum of the daily individual wasteload allocations for point sources and load allocations for nonpoint sources and natural background minus the sum of a specified margin of safety and any capacity reserved for growth. A TMDL sets and allocates the maximum daily amount of a pollutant that may be introduced into a waterbody and still assure attainment and maintenance of water quality standards.

(82) “Traffic phasing plan” means a written plan that addresses the installation of appropriate pollution prevention practices that is directly related to the land disturbance associated with infrastructure constructed to reroute vehicular traffic within an active construction zone. The term does not include detours that are directed away from the active construction area.

(83) “Urbanized area” or “UA” means a land area comprising one (1) or more places that together have a residential population of at least fifty thousand (50,000) and an overall population density of at least five hundred (500) people per square mile.

(84) “Vegetative practices” means any nonstructural or structural BMP that, with optimal design and good soil conditions, utilizes various forms of vegetation to enhance pollutant removal, maintain and improve natural site hydrology, promote healthier habitats, and increase aesthetic appeal. Examples include grass swales, filter strips, buffer strips, constructed wetlands, and rain gardens.

(85) “Waste transfer station” means a place where solid wastes are segregated for additional off-site processing or disposal.

(86) “Wasteload allocation” means the portion of a receiving stream’s loading capacity that is allocated to one (1) of its existing or future point sources or of pollution.

(87) “Waterbody” means any accumulation of water, surface or underground, natural or artificial, including rivers, streams, creeks, ditches, swales, lakes, ponds, marshes, wetlands, and ground water. The term does not include any storage or treatment structures.

(88) “Watercourse” means the path taken by flowing surface water.

(89) “Watershed” means an area of land from which water drains to a common point.

(90) “Waters” means:

~~(i)~~(A) the accumulations of water, surface and underground, natural and artificial, public and private; or

~~(ii)~~(B) a part of the accumulations of water;

that are wholly or partially within, flow through, or border upon Indiana. ~~(B)~~

The term does not include ~~(i)~~ a private pond; or ~~(ii)~~ an off-stream pond, reservoir, or facility built for reduction or control of pollution or cooling of water before discharge; unless the discharge from the pond, reservoir, or facility causes or threatens to cause water pollution.

(91) “Wellhead protection area” has the meaning set forth at 327 IAC 8-4.1-1(27).
(*Water Pollution Control Board; 327 IAC 15-13-5*)

327 IAC 15-13-6 Notice of intent letter requirements

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 6. (a) Unless one (1) application is submitted for multiple MS4 entities, each MS4 entity shall submit an NOI letter with the following information, which will serve as the permit application:

(1) Contact information required under subsection (b).

(2) List of all known receiving waters or, if the discharge is to another MS4, the name of the MS4 entity and the initial receiving water. For the purposes of the NOI letter submittal, receiving waters include, at a minimum, waters listed on the United States Geological Survey National Hydrogeologic Database, or, if no waters are listed on this database within a given MS4 area, the primary receiving water for the MS4 area drainage. As additional receiving waters are identified, the information must be provided in the corresponding annual report, required in section 18 of this rule.

(3) Copy of the completed SWQMP-Part A: Initial Application certification submittal and checklist form.

(4) Proof of publication in the newspaper with the greatest circulation in the affected MS4 area. The notice must provide a listing of all entities intended to be covered under the permit. This statement must be included in the public notice, (MS4 entity name and address) intends to discharge storm water into the (text name and numeric code of all 14-digit Hydrologic Unit Code area) watershed(s), and is submitting a Notice of Intent letter to notify the Indiana Department of Environmental Management of our intent to comply with

the requirements under 327 IAC 15-13 to discharge storm water run-off associated with municipal separate storm sewer systems.”

(5) Certification, by completing and signing Appendix A of the NOI letter, that any applicable, legally binding agreements between MS4 area entities have been obtained concerning individual responsibilities for implementation of this rule.

(b) The contact information required under subsections (a)(1) and (c)(1) must include the following:

(1) Name of MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual for each MS4 entity.

(2) Title of the MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual or individuals.

(3) MS4 entity represented by the MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual or individuals.

(4) Mailing (and, if different, the physical) address of the MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual or individuals.

(5) Telephone and facsimile number of the MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual or individuals.

(6) E-mail address (if available) of MS4 operator, primary contact individual (if different from the MS4 operator), or responsible individual or individuals.

(c) The SWQMP-Part A: Initial Application required under subsection (a)(3) must contain the following:

(1) Written listing of the MS4 entities within an MS4 area covered by the NOI letter submittal. The listing must provide the name of each MS4 entity, a responsible individual for each MS4 entity, and contact information for each MS4 entity.

(2) Written schedule which, at a minimum, adheres to the compliance schedule in section 11 of this rule.

(3) Written proposed or estimated budget allocation for the MS4 area’s storm water program, with a summary of identified funding sources. When multiple MS4 entities are applying under a single NOI letter, the budget allocation must be, at a minimum, separated by MS4 entity.

(d) Multiple MS4 entities within an MS4 area may submit a single NOI letter provided they comply with the submittal requirements of this section. Coverage under a single NOI letter will only be allowed if all the MS4 entities seeking coverage consolidate, and provide, the required information in sections 7, 8, and 18 of this rule as single submittals, and the information is submitted to the department by the MS4 operator designated in subsection (b). MS4 operators may utilize materials from existing local or state programs, or partner with an existing individual MS4 permittee, if all parties agree to coordinate responsibilities in accordance with subsection (a)(5).

(e) Multiple MS4 entities within an MS4 area may submit a separate NOI letter corresponding to each entity and still share responsibilities for implementation of one (1) or more of the requirements in this rule provided they comply with the submittal requirements of this section and coordinate responsibilities in accordance with subsection (a)(5).

(f) Where multiple MS4 entities submit one (1) or more NOI letters based on a watershed delineation and the created MS4 area contains undesignated MS4 entities, the undesignated MS4 entities shall not be subject to the provisions of this rule unless the applicability requirements of section 3 of this rule apply.

(g) Where the MS4 operator changes, or where a new operator is added after the submittal of an NOI letter, a new NOI letter must be completed and submitted in accordance with 327 IAC 15-2-8, and sections 6 and 9 of this rule. If no other conditions change except for the name of the MS4 operator, a written letter describing the name change and a statement that no other conditions, including those conditions in the SWQMP-Part A: Initial Application and legal agreements, have changed will be sufficient notification to the department.

(h) An MS4 entity within an MS4 area that does not have the legal authority or other regulatory mechanisms to implement one (1) or more of the six (6) minimum control measures required under this rule shall either obtain the legal authority or other regulatory mechanism, or work with a neighboring regulated MS4 entity, via legally binding agreements, to share responsibilities.

(i) All documents and information required by this section must meet the signatory requirements of 327 IAC 15-4-3(g).

(j) A qualified professional and the MS4 operator shall certify, with the stated paragraph found in 327 IAC 15-4-3(g)(3), a submitted SWQMP-Part A: Initial Application checklist form.

(k) The department shall review initially submitted NOI letters and SWQMP-Part A: Initial Applications for adequacy, and shall assign each NOI letter an NPDES permit number. Either a written NOD letter requesting additional information, or NOS letter containing the assigned NPDES permit number shall be returned to the MS4 operator within ninety (90) days of the NOI letter submittal. If the MS4 operator does not receive either a NOD letter or NOS letter within ninety (90) days of the NOI letter submittal, the NOI letter and SWQMP-Part A: Initial Application will be considered adequate.

(l) Responses to NOD letters shall be made by the recipient within thirty (30) days of the date on the NOD letter.

(m) Forms for the NOI letter, SWQMP, annual report, and required certifications shall be

provided by the department. (*Water Pollution Control Board; 327 IAC 15-13-6*)

327 IAC 15-13-7 SWQMP-Part B: baseline characterization and report

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 7. (a) An MS4 operator shall characterize the water quality of all known waters that receive storm water outfall discharges within the MS4 area. This characterization may begin with the receiving waters identified in the NOI letter submittal, and, as receiving waters are identified, the characterization shall be expanded to those additional receiving waters and the subsequent information presented in the corresponding annual report, required under section 18 of this rule. The water quality characterization must utilize existing or new information that may describe the chemical, biological, or physical condition of the MS4 area water quality. If monitoring is conducted as part of the characterization, the monitoring of receiving waters shall be either at, or in proximity to, all known, or representative, storm water outfall discharges. After the baseline characterization data is collected, the MS4 operator shall evaluate the data in the baseline characterization to determine which identified areas or specific discharge points are in need of additional water quality measures. This baseline characterization must include the following:

- (1)** An investigation of land usage and assessment of structural and nonstructural storm water BMP locations and conclusions, such as key observation or monitoring locations in the MS4 conveyances, derived from the land usage investigation.
- (2)** The identification of known sensitive areas, such as public swimming areas, surface drinking water intakes, waters containing threatened or endangered species and their habitat, or state outstanding resource and exceptional use waters. The identified sensitive areas should be given the highest priority for the selection of BMPs and the prohibition of new or significantly increased MS4 discharges.
- (3)** A review of known existing and available monitoring data of the MS4 area receiving waters, including, as applicable, data that can be correlated from SRCERs.
- (4)** The identification of areas having a reasonable potential for, or actually, causing storm water quality problems based on the available and relevant chemical, biological, physical, land use, and complaint data.
- (5)** Assessment results of BMP locations and, as appropriate, the structural condition of the BMP, related to the BMP's effectiveness in improving storm water quality. As appropriate, this assessment should include recommendations for placement and implementation of additional BMPs within the MS4 area.

(b) An SWQMP-Part B: Baseline Characterization and Report addressing the requirements of subsection (a) must be developed and submitted to the department at the address specified in section 9(b) of this rule. The SWQMP-Part B: Baseline Characterization and Report and completed corresponding certification form must be submitted no later than one hundred eighty (180) days from the submission date of the initial NOI letter submittal was

received by the department, or the expiration date of the previous five (5) year permit term.

(c) The department shall review the SWQMP-Part B: Baseline Characterization and Report for adequacy, and a written NOS letter or NOD letter shall be issued to the MS4 operator. If no letter is issued within ninety (90) days of submittal, the SWQMP-Part B: Baseline Characterization and Report is deemed sufficient.

(d) Responses to NOD letters shall be made by the recipient within thirty (30) days of the date on the NOD letter.

(e) Ongoing data collection related to the SWQMP-Part B: Baseline Characterization and Report must be submitted to the department with the corresponding annual report.

(f) A qualified professional and the MS4 operator shall certify, with the stated paragraph found in 327 IAC 15-4-3(g)(3), a submitted SWQMP-Part B: Baseline Characterization and Report checklist form. (*Water Pollution Control Board; 327 IAC 15-13-7*)

327 IAC 15-13-8 Submittal of an SWQMP-Part C: program implementation

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 8. (a) An MS4 operator shall develop and implement an SWQMP-Part C: Program Implementation. The SWQMP-Part C: Program Implementation must contain the following:

(1) An initial evaluation of the storm water program for the MS4 area. This evaluation should include information on all known structural and nonstructural storm water BMPs utilized.

(2) A detailed program description for each minimum control measure (MCM) referenced in sections 12 through 17 of this rule.

(3) A timetable for program implementation milestones, which includes milestones for each of the MCMs referenced in sections 12 through 17 of this rule, and applicable SWQMP-Part B: Baseline Characterization and Report conclusions (BMP recommendations, additional protective measures for sensitive areas, and correcting identified water quality problems).

(4) As appropriate, a schedule for on-going characterization of the receiving waters either at, or in proximity to, outfall locations identified in the SWQMP-Part B: Baseline Characterization and Report to evaluate BMP effectiveness and receiving water quality.

(5) A narrative and mapped description of the MS4 area boundaries that indicate responsible MS4 entity areas for each MCM. The narrative description must include the specific sectional or, as appropriate, the street name, boundaries of the MS4 area.

(6) An estimate of the linear feet of MS4 conveyances within the MS4 area, segregated by MS4 type, for example, by open ditch or pipe.

(7) A summary of which structural BMP types will be allowed in new development and redevelopment for the MS4 area.

- (8) A summary on storm water structural BMP selection criteria and, where appropriate, associated performance standards that must be met after installation to indicate BMP effectiveness.
- (9) A summary of the current storm water budget, expected or actual funding source, and a projection of the budget for each year within the five (5) year permit term.
- (10) A summary of measurable goals for, at a minimum, each MCM referenced in sections 12 through 17 of this rule. These measurable goals shall demonstrate results that relate to an environmental benefit.
- (11) Completed certification forms, as appropriate, for each MCM. The certification forms only need to be completed and submitted during the initial five (5) year permit term.
- (12) The identification of programmatic indicators. Programmatic indicators, grouped by corresponding MCM, must include those listed in subsection (b) that apply to the MS4 operator. Other relevant indicators may be used in place of those listed in subsection (b). If an indicator listed in subsection (b) is not applicable to the operator, or if an other relevant indicator is used, the operator shall provide rationale for the nonidentification or substitution. Programmatic indicators do not need to be fully implemented at the time of the SWQMP-Part C: Program Implementation submittal. Updated data for each of these indicators must be submitted in each annual report.
- (b) The programmatic indicators must address the following:
- (1) Number or percentage of citizens, segregated by type of constituent as referenced in section 12(a) of this rule, that have an awareness of storm water quality issues.
- (2) Number and description of meetings, training sessions, and events conducted to involve citizen constituents in the storm water program.
- (3) Number or percentage of citizen constituents that participate in storm water quality improvement programs.
- (4) Number and location of storm drains marked or cast, segregated by marking method.
- (5) Estimated or actual linear feet or percentage of MS4 mapped and indicated on an MS4 area map.
- (6) Number and location of MS4 area outfalls mapped.
- (7) Number and location of MS4 area outfalls screened for illicit discharges.
- (8) Number and location of illicit discharges detected.
- (9) Number and location of illicit discharges eliminated.
- (10) Number of, and estimated or actual amount of material, segregated by type, collected from HHW collections in the MS4 area.
- (11) Number and location of constituent drop-off centers for automotive fluid recycling.
- (12) Number or percentage of constituents that participate in the HHW collections.
- (13) Number of construction sites obtaining an MS4 entity-issued storm water run-off permit in the MS4 area.
- (14) Number of construction sites inspected.
- (15) Number and type of enforcement actions taken against construction site operators.
- (16) Number of, and associated construction site name and location for, public informational requests received.
- (17) Number, type, and location of structural BMPs installed.

- (18) Number, type, and location of structural BMPs inspected.
 - (19) Number, type, and location of structural BMPs maintained or improved to function properly.
 - (20) Type and location of nonstructural BMPs utilized.
 - (21) Estimated or actual acreage or square footage of open space preserved and mapped in the MS4 area, if applicable.
 - (22) Estimated or actual acreage or square footage of pervious and impervious surfaces mapped in the MS4 area, if applicable.
 - (23) Number and location of new retail gasoline outlets or municipal, state, federal, or institutional refueling areas, or outlets or refueling areas that replaced existing tank systems that have installed storm water BMPs.
 - (24) Number and location of MS4 entity facilities that have containment for accidental releases of stored polluting materials.
 - (25) Estimated or actual acreage or square footage, amount, and location where pesticides and fertilizers are applied by a regulated MS4 entity to places where storm water can be exposed within the MS4 area.
 - (26) Estimated or actual linear feet or percentage and location of unvegetated swales and ditches that have an appropriately-sized vegetated filter strip.
 - (27) Estimated or actual linear feet or percentage and location of MS4 conveyances cleaned or repaired.
 - (28) Estimated or actual linear feet or percentage and location of roadside shoulders and ditches stabilized, if applicable.
 - (29) Number and location of storm water outfall areas remediated from scouring conditions, if applicable.
 - (30) Number and location of deicing salt and sand storage areas covered or otherwise improved to minimize storm water exposure.
 - (31) Estimated or actual amount, in tons, of salt and sand used for snow and ice control.
 - (32) Estimated or actual amount of material by weight collected from catch basin, trash rack, or other structural BMP cleaning.
 - (33) Estimated or actual amount of material by weight collected from street sweeping, if utilized.
 - (34) If applicable, number or percentage and location of canine parks sited at least one hundred fifty (150) feet away from a surface waterbody.
- (c) An SWQMP-Part C: Program Implementation and completed corresponding certification form must be submitted to the department within three hundred sixty-five (365) days from the date of the initial NOI letter submittal was received by the department, or the expiration date of the previous five (5) year permit term.
- (d) The department shall review submitted SWQMP-Part C: Program Implementations for adequacy. Either a written NOD letter requesting additional information, or NOS letter shall be sent to the MS4 operator within ninety (90) days of the SWQMP-Part C: Program Implementation submittal. If no letter is issued within ninety (90) days of submittal, the plan is deemed sufficient.

- (e) Responses to NOD letters must be made by the recipient within thirty (30) days of the date on the NOD letter.
- (f) As conditions or allowed technologies change, the SWQMP-Part C: Program Implementation must be updated. When updates are created, relevant sections of the SWQMP-Part C: Program Implementation containing the updates must be submitted to the commissioner as an attachment to the corresponding annual report, required under section 18 of this rule.
- (g) A qualified professional and the MS4 operator shall certify, with the stated paragraph found in 327 IAC 15-4-3(g)(3), a submitted SWQMP-Part C: Program Implementation checklist form. (*Water Pollution Control Board; 327 IAC 15-13-8*)

327 IAC 15-13-9 Submittal of an NOI letter and other documents

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4; IC 15-4-3

Sec. 9. (a) All information required under section 6 of this rule must be submitted to the commissioner. An MS4 entity that meets the designation criteria under section 3 of this rule shall submit the NOI letter, SWQMP-Part A: Initial Application, and other required documentation no later than ninety (90) days from the effective date of this rule, unless:

- (1) written permission for a later date has been granted by the commissioner; or
- (2) the MS4 entity was not notified in writing at least one hundred eighty (180) days prior to the effective date of this rule.

(b) A termination request, the NOI letter, Parts A, B, and C of the SWQMP, and any other required information must be submitted to:

**Indiana Department of Environmental Management
Office of Water Quality, Urban Wet Weather Section
Rule 13 Storm Water Coordinator
100 North Senate Avenue, Room 1255
P.O. Box 6015
Indianapolis, Indiana 46206-6015.**

(c) The permit and the compliance schedules of this rule become effective upon receipt of the initial NOI letter by the department.

(d) The commissioner may deny coverage under this rule and require submittal of an application for an individual NPDES permit based on a review of the NOI letter or other information. This review may consider the location and size of the discharge, the quantity and nature of the pollutants discharged, and other relevant factors. Before completing the review, the department will inform the MS4 entity as to what information is being used for the review, and provide the MS4 entity an opportunity to respond if the MS4 entity believes

the information used is inaccurate or incomplete.

(e) An MS4 entity that either was not notified in writing at least one hundred eighty (180) days prior to the effective date of this rule, or meets the designation criteria of section 3 of this rule after the effective date of this rule due to changing conditions or new facility construction, shall submit the required information under section 6 of this rule, within ~~one hundred eighty (180)~~ three hundred sixty-five (365) days of either:

- (1) the date of receivership on the written notification;
- (2) becoming aware of the relevant changed conditions; or
- (3) upon the initiation of facility operations;

unless written permission for a later date has been granted by the commissioner.

(f) Any person who knowingly makes any false statement, representation, or certification in any document submitted or required to be maintained under this rule is subject to 327 IAC 15-4-3(i). (*Water Pollution Control Board; 327 IAC 15-13-9*)

327 IAC 15-13-10 MS4 permit implementation; coordination with total maximum daily load allocations

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 10. If a total maximum daily load (TMDL) is approved for any waterbody into which an MS4 conveyance discharges, the MS4 operator must review and appropriately modify Parts B and C of their SWQMP if the TMDL includes requirements for control of storm water discharges under the jurisdiction of the MS4 operator. (*Water Pollution Control Board; 327 IAC 15-13-10*)

327 IAC 15-13-11 Compliance schedule

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 11. An MS4 operator shall comply with the following schedule for implementation of this rule:

Rule Requirement	Compliance Deadline (from <u>initial</u> NOI letter <u>submittal</u> <u>receivership</u> date)
Storm Water Quality Management Plan:	Components throughout term of permit
Part A: Initial Application submitted	With NOI letter
Part B: Baseline Characterization and Report submitted	180 days
Part C: Program Implementation submitted	1 year

Public Education and Outreach MCM implementation:	Throughout term of permit
Public education and outreach program development certification submitted	1 year
Public Involvement/Participation MCM implementation:	Throughout term of permit
Public involvement and participation program development certification submitted	1 year
Illicit Discharge Detection/Elimination MCM implementation:	Throughout term of permit
Illicit discharge plan and regulatory mechanism certification submitted	1 year
25 % of storm water outfalls systems mapped	Each year after 1 year
All known storm water outfall systems, with pipe diameters 12 inches or greater or open ditches with 2 feet or larger bottom width, mapped	5 years
Construction Site Run-Off Control MCM implementation:	Throughout term of permit
Construction site program plan and regulatory mechanism certification submitted	1 year
Postconstruction Run-Off Control MCM implementation:	Throughout term of permit
Operational and maintenance plan certification submitted	2 years
Postconstruction program plan and regulatory mechanism certification submitted	2 years
Municipal operations pollution prevention and good housekeeping MCM implementation:	Throughout term of permit
Operations pollution prevention program development certification submitted	1 year

If an MS4 operator is unable to meet a compliance deadline under this section the operator shall submit a written request and justification for extending the deadline. The request must be submitted to the department no later than thirty (30) days prior to the due date. (*Water Pollution Control Board; 327 IAC 15-13-11*)

327 IAC 15-13-12 Storm water quality management plan public education and outreach MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 12. (a) An MS4 operator shall develop an SWQMP that includes methods and measurable goals that will be used to inform residents, visitors, public service employees, commercial and industrial facilities, and construction site personnel within the MS4 area about the impacts polluted storm water run-off can have on water quality and ways they can minimize their impact on storm water quality. The MS4 operator shall ensure, via documentation, that a reasonable attempt was made to reach all constituents within the MS4 area to meet this measure.

(b) MS4 operators are encouraged to utilize existing programs and outreach materials to meet this measure. MS4 operators shall identify and implement an informational program with educational materials for constituents. A certification form shall be completed and submitted to the department once the program has been developed and implemented, or three hundred sixty-five (365) days from the date of the initial NOI letter submittal was received by the department, whichever is earlier. In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum every five (5) years the program shall be reviewed for adequacy and accuracy, and updated as necessary.

(c) MS4 operators shall develop measurable goals for this MCM. An initial assessment of the MS4 area constituents must be conducted to determine initial constituent knowledge and practices as they relate to storm water quality. To comply with this measure, specific target outreach or reduction goal percentages and timetables must be identified. As applicable or, if not applicable, then appropriately justified, goals must address relevant targeted audience improvement in disposal practices, cast storm drain cover installations, school curricula or Web site implementation, outreach to every population sector, and educational material distribution.

(d) In combined sewer system municipalities designated under this rule, the current LTCP shall be reviewed, and any necessary additions language changes to ensure consistency with the SWQMP shall be included in the plan to ensure that this MCM requirement is met. (Water Pollution Control Board; 327 IAC 15-13-12)

327 IAC 15-13-13 Storm water quality management plan public participation and involvement MCM

**Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4**

Sec. 13. (a) The MS4 operator shall develop an SWQMP that includes provisions to allow opportunities for constituents within the MS4 area to participate in the storm water management program development and implementation. An MS4 operator shall ensure, via

documented efforts, that sufficient opportunities were allotted to involve all constituents interested in participating in the program process to meet this measure. Correctional facilities will not be required to implement the public participation and involvement MCM.

(b) An MS4 entity shall comply with applicable public notice requirements. An MS4 operator shall identify and implement a public participation and involvement program. A certification form shall be completed and submitted to the department once the program has been developed and implemented, or three hundred sixty-five (365) days from the date of the initial NOI letter submittal was received by the department, whichever is earlier. In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the program shall be reviewed for adequacy and accuracy, and updated, as necessary.

(c) An MS4 operator shall develop measurable goals for this MCM. An initial assessment of MS4 area constituents must be conducted to identify interested individuals for participation in the MS4 area storm water program. To comply with this measure, specific outreach and reduction goal percentages and timetables must be identified. As applicable or, if not applicable, then appropriately justified, goals must address relevant community participation in citizen panels, community clean-ups, citizen watch groups and drain marking projects, and public meeting notification.

(d) In combined sewer system municipalities designated under this rule, the current LTCP shall be reviewed, and any necessary additions language changes to ensure consistency with the SWQMP shall be included in the plan to ensure that this MCM requirement is met. (*Water Pollution Control Board; 327 IAC 327 IAC 15-13-13*)

327 IAC 15-13-14 Storm water quality management plan illicit discharge detection and elimination MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 14. (a) An MS4 operator shall develop an SWQMP that includes a commitment to develop and implement a strategy to detect and eliminate illicit discharges to the MS4 conveyance.

(b) An MS4 operator shall develop a storm sewer system map showing the location of all outfalls and MS4 conveyances in the particular MS4 area under the MS4 operator's control and the names and locations of all waters that receive discharges from those outfalls. A map developed under this subsection must meet the following:

(1) At a minimum, longitude and latitude for mapped outfall locations must be done in decimal degrees, or, if a global positioning system is utilized, mapping-

grade accuracy data shall be collected, where an accuracy discrepancy is less than five (5) meters.

(2) The mapping requirement must be developed as follows:

(A) All known outfall conveyance systems with a pipe diameter of twelve (12) inches or larger and open ditches with a two (2) foot or larger bottom width must be mapped within the first five (5) year permit term, according to the following:

(i) After the second year of permit coverage, mapping must depict the location of outfall conveyance systems for at least twenty-five percent (25%) of the MS4 conveyances within the MS4 area.

(ii) For each additional year of the initial permit term, mapping must depict at least an additional twenty-five percent (25%) of the MS4 conveyances.

(B) Subsequent permit terms will require that all remaining outfall conveyance systems are mapped.

(3) The mapping requirements in subdivision (2) do not include private or mutual drains, yard swales that are not maintained by a regulated MS4 entity, or curbs and gutters.

(c) Through an ordinance or other regulatory mechanism, an MS4 operator shall prohibit illicit discharges into MS4 conveyances and establish appropriate enforcement procedures and actions.

(d) An MS4 operator shall develop a plan to detect, address, and eliminate illicit discharges, including illegal dumping, into the MS4 conveyance. This plan need not address the following categories of nonstorm water discharges or flows, unless the MS4 operator identifies them as significant contributors of pollutants to its MS4 conveyance:

- (1) Water line flushing.**
- (2) Landscape irrigation.**
- (3) Diverted stream flows.**
- (4) Rising ground waters.**
- (5) Uncontaminated ground water infiltration.**
- (6) Uncontaminated pumped ground water.**
- (7) Discharges from potable water sources.**
- (8) Foundation drains.**
- (9) Air conditioning condensation.**
- (10) Irrigation water.**
- (11) Springs.**
- (12) Water from crawl space pumps.**
- (13) Footing drains.**
- (14) Lawn watering.**
- (15) Individual residential car washing.**

- (16) Flows from riparian habitats and wetlands.**
- (17) Dechlorinated swimming pool discharges.**
- (18) Street wash water.**
- (19) Discharges from firefighting activities.**

(e) The plan developed under subsection (d) must, at a minimum, locate problem areas via dry weather screening or other means, determine the source, remove or otherwise correct illicit connections, and document the actions taken. The dry weather screening or other means must utilize a field testing kit, or similar method, to analyze for pollutants of concern and other parameters, such as pH, conductivity, or nitrogen-ammonia, used to identify possible pollutant sources. All storm water outfalls in the regulated MS4 area under the MS4 operator's control must be screened for illicit discharges. The screening may be initiated gradually throughout successive five (5) year permit cycles. If the gradual approach is utilized, all storm water outfalls with a pipe diameter of twelve (12) inches or larger and open ditches with a two (2) foot or larger bottom width must be screened in the first five (5) year permit term. Subsequent permit terms will require that all remaining outfalls be screened.

(f) The plan developed under subsection (d) must identify all active industrial facilities within the MS4 area that discharge into an MS4 conveyance. This identification shall include the facility name, address, telephone number, and Standard Industrial Classification (SIC) code. Updated information regarding active industrial facilities must be submitted in each annual report.

(g) A certification form must be completed and submitted to the department once the plan has been developed and implemented, or three hundred sixty-five (365) days from the date of the initial NOI letter submittal was received by the department, whichever is earlier. In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the program shall be reviewed for adequacy and accuracy, and updated, as necessary.

(h) An MS4 operator shall educate public employees, businesses, and the general public about the hazards associated with illicit discharges and improper disposal of waste. This educational effort shall include the following:

- (1) Informational brochures and guidances for specific audiences and school curricula.**
- (2) Publicizing and facilitating public reporting of illicit discharges and spills.**

(i) An MS4 operator shall initiate, or coordinate existing, recycling programs in the regulated MS4 area for commonly dumped wastes, such as motor oil, antifreeze, and pesticides.

(j) An MS4 operator shall develop measurable goals for this MCM. To comply with this measure, specific outreach and reduction percentages and timetables must be identified. At a minimum, goals must address relevant collection system mapping, regulatory mechanism implementation, employee training, household hazardous waste programs, illicit discharge detection, and illicit discharge elimination.

(k) In combined sewer system municipalities designated under this rule, the current CSOOP and LTCP must be reviewed, and any necessary additions language changes to ensure consistency with the SWQMP must be included in the plans to ensure that this MCM requirement is met. (*Water Pollution Control Board; 327 IAC 15-13-14*)

327 IAC 15-13-15 Storm water quality management plan construction site storm water run-off control MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 15. (a) An MS4 operator shall develop an SWQMP that includes a commitment to develop, implement, manage, and enforce an erosion and sediment control program for construction activities that disturb one (1) or more acres of land within the MS4 area.

(b) Through an ordinance or other regulatory mechanism, the MS4 operator shall establish a construction program that controls polluted run-off from construction activities with a land disturbance greater than or equal to one (1) acre, or disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale as defined in 327 IAC 15-5-4(20) if the larger common plan will ultimately disturb one (1) or more acres of land. At a minimum Except for state permitting process references and submittal deadlines of construction plans and permit applications in 327 IAC 15-5, this ordinance or other regulatory mechanism must contain, at a minimum, the requirements of 327 IAC 15-5. The MS4 operator may establish a permitting process and timetable for plan and application submittals that is different than that established under 327 IAC 15-5. The permitting process must include a requirement for the construction project site owner to submit a copy of the application directly to the department. A certification form shall be completed and submitted to the department once the ordinance or other regulatory mechanism is developed and a program has been implemented, or three hundred sixty-five (365) days from the date of the initial NOI letter submittal was received by the department, whichever is earlier. In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the regulatory mechanism and program shall be reviewed for adequacy and accuracy, and updated, as necessary. Until the MS4 operator program is implemented, NOI letters and construction plans for construction activities within the MS4 area will be submitted in accordance with 327 IAC

15-5-5 and 15-5-6 to the department and the local SWCD or department of natural resources, division of soil conservation, respectively.

(c) If the MS4 operator has not entered into a written agreement with the local SWCD to review and approve construction site plans or conduct construction site inspections, the MS4 operator shall provide an opportunity to the local SWCD to provide comments and recommendations to the MS4 operator on individual projects. This process may be accomplished by the MS4 operator establishing a local plan review and comment procedure, a project technical review committee, or other mechanism to solicit the input of the local SWCD.

(d) Failure of the SWCD to respond within a predetermined time period should not delay final action of the MS4 operator to approve plans or projects.

(e) In addition to any procedural requirements for submittal to the MS4 operator or MS4 designated entity, an NOI letter required under 327 IAC 15-5 must be submitted to the department for any projects within the MS4 area.

(f) The MS4 operator, or a designated MS4 entity, shall meet the following:

(1) Develop requirements for the implementation of appropriate BMPs on construction sites to control sediment, erosion and other waste.

(2) Review and approve the construction plans submitted by the construction site operator before construction activities commence.

(3) Develop procedures for site inspection and enforcement to ensure that BMPs are properly installed.

(4) Establish written procedures to identify priority sites for inspection and enforcement based on, at a minimum, the nature and extent of the construction activity, topography, and the characteristics of soils and receiving water quality.

(5) Develop procedures for the receipt and consideration of public inquiries, concerns, and information submitted regarding local construction activities.

(6) Implement, at a minimum, a tracking process in which submitted public information, both written and verbal, is documented and then given to appropriate staff for follow-up.

(g) MS4 area personnel responsible for plan review, inspection, and enforcement of construction activities shall ~~attend~~ receive, at a minimum, ~~an~~ an annual training session addressing such topics as appropriate control measures, which has been approved of by the department and the department of natural resources, division of soil conservation inspection protocol, and enforcement procedures.

(h) An MS4 operator shall develop measurable goals for this MCM. To comply with this measure, specific outreach, compliance, and implementation goal percentages and

timetables must be identified. At a minimum, goals must address relevant regulatory mechanism implementation, public informational request procedure implementation, site inspection procedure implementation, and construction site operator compliance improvement.

(i) For those construction activities operated by the MS4 operator or MS4 municipalities within the MS4 area, construction plans must be submitted to the local SWCD, the department of natural resources, division of soil conservation, or other entity designated by the department for review and approval. If the MS4 operator does not receive either a notice of deficiency or an approval within thirty-five (35) days of the submittal, the plan will be considered adequate. After a one (1) year period of compliance, the MS4 operator or the designated MS4 entity need not submit the plans and may review MS4-operated project construction plans internally with the written authorization of the department of natural resources, division of soil conservation.

(j) In addition to the requirements of 327 IAC 15-5-6.5, the MS4-operated project construction plans must include a traffic phasing plan for those projects that have the potential to alter vehicular traffic routes.

(k) In addition to the requirements of ~~327 IAC 15-5-6.5(b)(7)~~ 327 IAC 15-5-6.5(a)(7), the MS4-operated project storm water pollution prevention plan must address the following areas outside of right-of-ways:

- (1) Utility relocation areas.
- (2) Material hauling and transportation routes/roads.
- (3) Borrow pits.
- (4) Temporary staging and material stockpile areas.
- (5) Temporary disposal areas for waste materials.

(Water Pollution Control Board; 327 IAC 15-13-15)

327 IAC 15-13-16 Storm water quality management plan postconstruction storm water run-off control MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 16. (a) An MS4 operator shall develop an SWQMP that includes a commitment to develop, implement, manage, and enforce a program to address discharges of postconstruction storm water run-off from new development and redevelopment areas that disturb one (1), or more, acre of land, or disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale ~~as defined in 327 IAC 15-5-4(20)~~ if the larger common plan will ultimately disturb one (1) or more acres of land, within the MS4 area.

(b) Through the use of an ordinance or other regulatory means, an MS4 operator shall implement planning procedures to promote improved water quality. These planning procedures must include, at a minimum, the postconstruction requirements of ~~327 IAC 15-5-6.5(b)(8)~~ 327 IAC 15-5-6.5(a)(8). Where appropriate, and to the extent of the MS4 operator's authority, the procedures must may also include the following:

- (1) Buffer strip and riparian zone preservation.
- (2) Filter strip creation.
- (3) Minimization of land disturbance and surface imperviousness.
- (4) Minimization of directly connected impervious areas.
- (5) Maximization of open space.
- (6) Directing the community's physical growth away from sensitive areas and toward areas that can support it without compromising water quality.

A certification form that combines the completed requirements of this subsection and subsection (e) shall be completed and submitted to the department once the ordinance or other regulatory means has been developed and a program has been implemented, or seven hundred thirty (730) days from the date of the initial NOI letter submittal was received by the department, whichever is earlier. In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the program shall be reviewed for adequacy and accuracy, and updated, as necessary.

(c) Where appropriate, an MS4 operator shall use any combination of storage, infiltration, filtering, or vegetative practices to reduce the impact of pollutants in storm water run-off on receiving waters. In addition to the combination of practices, the following requirements shall be utilized:

- (1) Infiltration practices will not be allowed in wellhead protection areas.
- (2) Discharges from an MS4 area will not be allowed directly into sinkholes or fractured bedrock without treatment that results in the discharge meeting Indiana ground water quality standards as referenced in 327 IAC 2-11.
- (3) Any storm water practice that is a Class V injection well must ensure that the discharge from such practices meets Indiana ground water quality standards as referenced in 327 IAC 2-11.
- (4) As site conditions allow, the rate at which water flows through the MS4 conveyances shall be regulated to reduce outfall scouring and stream bank erosion.
- (5) As site conditions allow, a vegetated filter strip of appropriate width shall be maintained along unvegetated swales and ditches.
- (6) New retail gasoline outlets, new municipal, state, federal, or institutional refueling areas, or outlets and refueling areas that replace their existing tank systems shall be required by MS4 ordinance or other regulatory means to design and install appropriate practices to reduce lead, copper, zinc, and polyaromatic hydrocarbons in storm water run-off.

(d) MS4 area personnel responsible for plan review, inspection, and enforcement of postconstruction BMPs shall attend receive, at a minimum, an annual training session addressing such topics as appropriate control measures, which has been approved of by the department and the department of natural resources, division of soil conservation inspection protocol, and enforcement procedures.

(e) An MS4 operator shall develop and implement a written operational and maintenance plan for all storm water structural BMPs. A certification form that combines the completed requirements of this subsection and subsection (b) shall be completed and submitted to the department once the plan has been developed and implemented, or seven hundred thirty (730) days from the date of the initial NOI letter submittal was received by the department, whichever is earlier. In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the program shall be reviewed for adequacy and accuracy, and updated, as necessary.

(f) An MS4 operator shall develop measurable goals for this measure. To comply with this measure, specific reduction percentages and timetables must be identified. At a minimum, goals must address relevant regulatory mechanism implementation, planning and structural BMP strategies, new impervious surface reduction, and discharge quality improvement. (*Water Pollution Control Board; 327 IAC 15-13-16*)

327 IAC 15-13-17 Storm water quality management plan municipal operations pollution prevention and good housekeeping MCM

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2
Affected: IC 13-18-4

Sec. 17. (a) An MS4 operator shall develop an SWQMP that includes a commitment to develop and implement a program to prevent or reduce pollutant run-off from municipal operations within the MS4 area.

(b) To the extent of their authority, an MS4 operator shall develop and implement a program to ensure that existing municipal, state, or federal operations are performed in ways that will reduce contamination of storm water discharges. A certification form must be completed and submitted to the department once the program has been developed and implemented or three hundred sixty-five (365) days from the date of the initial NOI letter submittal was received by the department, whichever is earlier. In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the program shall be reviewed for adequacy and accuracy, and updated, as necessary. This program must include the following:

(1) Written documentation of maintenance activities, maintenance schedules, and long term inspection procedures for BMPs to reduce floatables and other

pollutants discharged from the separate storm sewers. Maintenance activities shall include, as appropriate, the following:

- (A) Periodic litter pick up as defined in the MS4 area SWQMP.
 - (B) Periodic BMP structure cleaning as defined in the MS4 area SWQMP.
 - (C) Periodic pavement sweeping as defined in the MS4 area SWQMP.
 - (D) Roadside shoulder and ditch stabilization.
 - (E) Planting and proper care of roadside vegetation.
 - (F) Remediation of outfall scouring conditions.
- (2) Controls for reducing or eliminating the discharge of pollutants from operational areas, including roads, parking lots, maintenance and storage yards, and waste transfer stations. Appropriate controls shall include the following:
- (A) Covering, or otherwise reducing the potential for polluted storm water run-off from, deicing salt or sand storage piles.
 - (B) Establishing designated snow disposal areas that have minimal potential for pollutant run-off impact on MS4 area receiving waters.
 - (C) Providing facilities for containment of any accidental losses of concentrated solutions, acids, alkalies, salts, oils, or other polluting materials.
 - (D) Standard operating procedures for spill prevention and clean up during fueling operations.
 - (E) BMPs for vehicular maintenance areas.
 - (F) Prohibition of equipment or vehicle wash waters and concrete or asphalt hydrodemolition waste waters into storm water run-off, except under the allowance of an appropriate NPDES wastewater permit.
 - (G) ~~Promotion of recycling (to reduce litter).~~
 - ~~(H)~~ Minimization of pesticide and fertilizer use. Pesticides shall be used, applied, handled, stored, mixed, loaded, transported, and disposed of via office of the Indiana state chemist's guidance requirements.
 - ~~(H)~~ Proper disposal of animal waste. If applicable, it is recommended that canine parks shall be sited at least one hundred fifty (150) feet away from a surface waterbody.
- (3) Written procedures for the proper disposal of waste or materials removed from separate storm sewer systems and operational areas. All materials removed from separate storm sewer systems and operational areas, including dredge spoil, accumulated sediments, floatables, and debris, must be:
- (A) reused or recycled; or
 - (B) disposed of in accordance with applicable solid waste disposal regulations.
- (4) Written documentation that new flood management projects are assessed for their impacts on water quality and existing flood management projects are examined for incorporation of additional water quality protection devices or practices.

(5) Written documentation that appropriate MS4 entity employees have been properly trained, with periodic refresher sessions, on topics such as proper disposal of hazardous wastes, vegetative waste handling, fertilizer and pesticide application, and the function of implemented BMPs.

(c) An MS4 operator shall develop measurable goals for this MCM. To comply with this measure, specific reduction percentages and timetables must be identified. As applicable or, if not applicable, then appropriately justified, goals must address relevant catch basin cleaning and street sweeping procedures, employee training, recycling program implementation, pesticide, fertilizer and sand or salt usage reductions, floatables reduction, and maintenance schedule for BMPs.

(d) In combined sewer system municipalities designated under this rule, the current CSOOP and LTCP will need to be reviewed, and any necessary additions language changes to ensure consistency with the SWQMP must be included in the plans to ensure that this MCM requirement is met. (*Water Pollution Control Board; 327 IAC 15-13-17*)

327 IAC 15-13-18 Reporting requirements

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 18. (a) An MS4 operator regulated under this rule shall submit an annual report to the department the following information:

- (1) Progress towards development, implementation, and enforcement of all MCMs, including updated programmatic indicator data.**
- (2) Summary of complaints received and follow-up investigation results related to storm water quality issues.**
- (3) Updated measurable goals.**
- (4) Storm water BMPs installed or initiated.**
- (5) Follow-up or additional water quality characterization.**
- (6) Updated active industrial facilities list.**
- (7) Implementation problems encountered, including BMP changes due to ineffectiveness or infeasibility.**
- (8) Funding sources and expenditures.**
- (9) Changes to MS4 area boundaries, including land areas added to the MS4 area via annexation or other similar means.**
- (10) Identified storm water quality improvement projects.**
- (11) Updated receiving water information.**

The initial annual report shall be postmarked no later than three hundred sixty-five (365) days from the date of the SWQMP-Part C: Program Implementation submittal was received by the department. Subsequent report submittals during the first five (5) year permit term shall be provided no later that three hundred sixty-five (365) days from the previous report

in years three (3), four (4), and five (5). In subsequent permit terms, reports must be submitted in years two (2) and four (4).

(b) An MS4 operator shall submit a monthly construction site project summary to the department, containing a listing of all project names associated with section 15 of this rule, the project address, project duration, and an indication of enforcement actions undertaken. If no projects occur within a given month, a report does not need to be submitted. Reports must be postmarked no later than the last day of the following month. The commissioner may develop criteria for an alternative acceptable timetable for submission of this summary.

(c) The summary required under subsection (b) must address those projects for which there has been:

- (1) an NOI letter submittal, or its equivalent, to the MS4 entity; or
- (2) a Notice of Termination letter, or its equivalent, processed by the MS4 entity.

(d) An MS4 operator shall certify by signature on the annual report form that information provided is true and accurate. (*Water Pollution Control Board; 327 IAC 15-13-18*)

327 IAC 15-13-19 Permit duration

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 19. (a) The permits under this rule are valid for five (5) years, from the date the initial NOI letter was received by the department. Renewal application for the permit is required at least sixty (60) days prior to the expiration date. Coverage under renewal NOI letters will begin on the date of expiration from the previous five (5) year permit term.

(b) If MS4 entity conditions change within an MS4 area, written notification of the changes must be submitted to the commissioner.

(c) For a complete renewal application to be sufficient, a new NOI letter and SWQMP-Part A: Initial Application must be submitted in accordance with sections 6 and 9 of this rule.

(d) Permits may be reissued on a watershed basis, to take into account surface water quality monitoring strategies and sampling data analyses for individual drainage areas.

(e) Subsequent permits will require the MS4 operator to maintain and, where possible, improve their performance in implementing the six (6) MCMs. (*Water Pollution Control Board; 327 IAC 15-13-19*)

327 IAC 15-13-20 Permit termination

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-18-4

Sec. 20. (a) An MS4 entity may request the department to terminate permit coverage under this rule if:

- (1)** based on physical changes in the MS4 area, the permit is no longer needed;
- (2)** based on a lack of cooperation between MS4 entities, a new general permit NOI letter is needed; or
- (3)** based on documented reductions in population, population density, occupancy, or enrollment that result in numbers below minimum designation criteria; and a request based on this subdivision (3) will only be considered:

~~(A) for MS4 entities located outside of mapped UA areas; and~~

~~(B) once a permit under this rule has expired.~~

(b) The department may terminate permit coverage under this rule and require an MS4 entity to apply for an individual permit if one (1) of the six (6) cases referenced in 327 IAC 15-2-9(b) is applicable:

~~(1) effluent standards and limitations are promulgated for discharges subject to this rule; or~~

~~(2) it is determined that a general permit is not adequate to protect water quality.~~

(*Water Pollution Control Board; 327 IAC 15-13-20*)

327 IAC 15-13-21 Standard conditions

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-14-10; IC 13-18-4; IC 13-30

Sec. 21. In addition to the conditions set forth in this rule, the standard conditions for the NPDES general permit rule under 327 IAC 15-4 shall apply also to this rule. (*Water Pollution Control Board; 327 IAC 15-13-21*)

SECTION 23. 327 IAC 15-13-22 IS ADDED AS FOLLOWS:

327 IAC 15-13-22 Inspection and enforcement

Authority: IC 13-14-8; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-3-2

Affected: IC 13-14-10; IC 13-18-4; IC 13-30

Sec. 22. (a) The commissioner may inspect an MS4 entity regulated under this rule at any time. Any documentation required in sections 6 through 20 of this rule, or related to

implementation of this rule must be available at the physical address corresponding to the MS4 operator or the primary contact individual for review by the commissioner during normal business hours.

(b) At a minimum, records shall be established and maintained at the address referenced in subsection (a) for the five (5) years of the permit term. The five (5) year period will be extended:

(1) automatically during the course of any unresolved litigation regarding the discharge of pollutants by the MS4 operator, or other MS4 entity regulated by the MS4 area permit, or regarding promulgated effluent guidelines applicable to the MS4 area; or

(2) as requested by the regional administrator of the United States Environmental Protection Agency or the commissioner.

(c) The commissioner may request data to facilitate the identification or quantification of pollutants that may be released to the environment from an MS4 conveyance or to determine effectiveness of the MCMs.

(d) The commissioner, or an authorized representative, upon providing appropriate credentials, may inspect an MS4 entity regulated under this rule at any time. As it pertains to sections 15 and 16 of this rule, the department of natural resources, division of soil conservation staff, or their designated representative, upon providing appropriate credentials, may inspect an MS4 entity regulated under this rule at any time. Record keeping and reporting requirements for sections 15 and 16 of this rule shall conform to 327 IAC 15-5.

(e) All persons or MS4 entities responsible for the MS4 conveyances shall be responsible for complying with the SWQMP for the MS4 area and the provisions of this rule. Any person or MS4 entity causing or contributing to a violation of any provisions of this rule shall be subject to IC 13-30 and IC 13-14-10.

(f) All projects within an a regulated MS4 area meeting the applicability requirements of 327 IAC 15-5 are subject to inspection and enforcement by the department or their designated representative for violations associated with 327 IAC 15-5. (*Water Pollution Control Board; 327 IAC 15-13-22*)